



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF OPTOMETRISTS

IN THE MATTER OF A DISCIPLINARY
ACTION AGAINST OF THE LICENSE OF

KENNETH DANIELS, O.D.
License No. OA 4913

TO PRACTICE OPTOMETRY
IN THE STATE OF NEW JERSEY

: Administrative Action
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: FINAL DECISION AND ORDER
: AFTER UPL EXPLANATION
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This matter was opened to the New Jersey Board of Optometrists (hereinafter the "Board") on a review of an advertisement of the Respondent Kenneth Daniels advertising as Hopewell-Lambertville Eye and Laser Associates (hereinafter "Respondent"). On December 21, 2000, an advertisement ran in the Hopewell Valley News which utilized the term "Laser." The use of this term in the advertisement leads the public to believe that he provided laser treatment services which is not within the scope of practice. The investigation revealed probable violations of the advertising regulations at N.J.A.C. 13:38-1.2 (b) and 13:38-1.2(l)

On March 29, 2001 a Uniform Penalty Letter (hereinafter "U.P.L.") was sent to respondent setting forth the initial findings of the Board and offering Respondent the opportunity to settle this matter by acknowledging the violations and paying an aggregate civil penalty in the amount of \$250.00 reflecting the following:

1. A civil penalty of \$250.00 for using a statement which is false, misleading or deceptive and for failing to include your license and certification number in all future advertisements in violation of N.J.A.C. 13:38-1.2 and 13:38-1.2(l).

Alternatively, respondent was given the options of either requesting a hearing before the Board or submitting a written explanation and waiving respondent's right to a hearing.

Waiving his right to a hearing, respondent elected to submit a written explanation in which he maintained that his advertisement was not misleading as he had a contract with a local ophthalmologist to perform surgical procedures. Dr. Daniels also advised that he has removed the word "Laser" from his ad and asked the Board to advise him whether he may resume using the word laser if an ophthalmologist is a member of his staff.

At its meeting on April 18, 2001, the Board considered the complaint and respondent's explanation. Accordingly, the Board finds that respondent failed to conform with statutory and/or regulatory obligations as set forth in the UPL and thus it concludes that the violations of N.J.A.C. 13:38-1.2 occurred. The Board also determined that the business arrangement with Dr. Reynolds does not comply with the permissible business structures regulation. In order for laser treatments to be offered there must be legitimate association between the optometrist and the ophthalmologist as set forth in the permissible business structures regulation at N.J.A.C. 13:38-1.3.

Additionally, the Board found that the letterhead of the correspondence dated April 1, 2001 also has various violations of the advertising regulations. The use of the terms Medical Therapy of Eye Diseases and Disorders, Laser Vision Correction and Listing the Princeton Eye Group, Wills Eye Surgery Center in the optometric letterhead is misleading. These items should be removed from the correspondence within sixty (60) days of your receipt of this order.

Based on the foregoing:

IT IS on this 16th day of May, 2001

ORDERED that:

1. Respondent shall pay to the Board of Optometrists a civil penalty in the total amount

of \$ 250 for the violations as set forth in the U.P.L. and found as detailed above. Said payment shall be made by certified check or money order payable to the State Board of Optometrists and shall be delivered within ten (10) days of service of this order to the Executive Director at the Board of Optometrists, P. O. Box 45012, Newark, New Jersey 07101. Failure to remit the payment required by this Order will result in the filing of a certificate of debt.

2. Respondent shall cease and desist from engaging in any of the conduct found herein to be unlawful and take corrective action concerning the letterhead.

NEW JERSEY STATE
BOARD OF OPTOMETRISTS

BY: 

Leonard Strulowitz
President